UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re: **BILLY J. CURRO,** **Debtor.**	**Chapter 7** **Case No. 09-21643**
BILLY J. CURRO, **Plaintiffs,** **v.** **LITTON LOAN SERVICING, L.P.; OCWEN LOAN SERVICING; THE BANK OF NEW YORK MELLON TRUST COMPANY NATIONAL ASSOCIATION, F/K/A THE BANK OF NEW YORK COMPANY, N.A. AS SUCCESSOR TO JP MORGAN CHASE BANK, N.A. AS TRUSTEE FOR MORTGAGE ASSET BACKED PASS THROUGH CERTIFICATES SERIES 2005-SP3; JP MORGAN CHASE BANK, N.A., AS TRUSTEE UNDER THE POOLING AND SERVICING AGREEMENT DATED AS OF DECEMBER 1, 2005 MORTGAGE ASSET-BACKED PASS-THROUGH CERTIFICATES SERIES 2005-SP3; AND BENDETT & MCHUGH, P.C.,** **Defendants.**	**Adversary Proceeding** **No. ____________**

COMPLAINT

Billy J. Curro, the debtor in the above-captioned bankruptcy case, complains against The Bank of New York Mellon Trust Company National Association, f/k/a The Bank of New York Company, N.A. as successor to JP Morgan Chase Bank, N.A. as Trustee for Mortgage Asset Backed Pass Through Certificates Series 2005-SP3 ("Mellon"); JP Morgan Chase Bank, N.A. as Trustee for Mortgage Asset Backed Pass Through Certificates Series 2005-SP3 ("JP Morgan");

Litton Loan Servicing, L.P. ("Litton"); Ocwen Loan Servicing ("Ocwen"); and Bendett & McHugh, P.C. ("Bendett & McHugh", and together with Mellon, JP Morgan, Litton, and Ocwen, the "Defendants"), as follows:

NATURE OF THE ACTION

1. In this adversary proceeding, the Debtor seeks entry of a judgment against the Defendants for engaging in actions that violated the injunction against collection of pre-petition claims under § 524(a) of Title 11 of the United States Code (the "Bankruptcy Code"). As will be discussed in more detail below, his Court entered an order discharging Curro of all pre-petition debts, and, subsequently, the Defendants each violated that order in the following ways:

a. **Mellon** sought and obtained a judgment of foreclosure imposing personal liability on Curro for obligations under a promissory note that had been discharged even after having notice of the fact that such debt had been discharged and having been directed to cease and desist all collection efforts against Curro personally. In addition, Mellon failed to ensure that it had adequate procedures in place to ensure compliance with orders of this Court and § 524 of the Bankruptcy Code.

b. **Litton**, as the loan servicer for Mellon, sent dunning letters to Curro and added additional amounts to its claim for damages on account of a debt that had been discharged. In addition, Litton failed to ensure that it had adequate procedures in place to ensure compliance with orders of this Court and § 524 of the Bankruptcy Code.

c. **Ocwen**, as a subsequent loan servicer for Mellon, sent dunning letters to Curro, added additional amounts to its claim on account of a discharged debt, reported derogatory information to one or more credit bureaus, and refused to take corrective action upon Curro's request. In addition, Ocwen failed to ensure that it had adequate procedures in place to ensure compliance with orders of this Court and § 524 of the Bankruptcy Code.

d. **Bendett & McHugh**, as legal counsel for Mellon, prosecuted the foreclosure action in which Mellon obtained a deficiency judgment against Curro even after having notice of the fact that such debt had been discharged and having been directed to cease and desist all collection efforts against Curro personally. In addition, Bendett & McHugh failed to ensure that it had adequate procedures in place to ensure compliance with orders of this Court and § 524 of the Bankruptcy Code.

e. **JP Morgan**, as the real party in interest in the foreclosure action, obtained entry of a judgment of foreclosure imposing personal liability on Curro for obligations under a promissory note that had been discharged and failed to ensure that it had adequate procedures in place to ensure compliance with the orders of this Court and § 524 of the Bankruptcy Code.

2. Curro has suffered damages as a result of the Defendants' actions, including without limitation emotional distress damages, and now asks this Court to award damages, both actual and punitive, against the Defendants, as well as injunctive relief.

PARTIES

3. Curro is an individual residing in Biddeford, Maine, and was the debtor in the above-captioned bankruptcy case.

4. Upon information and belief, Litton is a Delaware limited partnership with offices in Miami, Florida.

5. Upon information and belief, Ocwen is a Delaware limited liability company with offices in West Palm Beach, Florida.

6. Upon information and belief, Mellon is a nationally chartered trust company with offices in Miami, Florida, and Los Angeles, California, and is a subsidiary of The Bank of New York Mellon Corporation.

7. Upon information and belief, JP Morgan is a New York business corporation.

8. Upon information and belief, Bendett & McHugh is a Connecticut corporation with a principal place of business of 270 Farming Avenue, Suite 151, Farmington, Connecticut 06032.

JURISDICTIONAL STATEMENT

9. On October 20, 2009, (the "Petition Date"), Curro filed in this Court a voluntary petition for relief under Chapter 7 of Bankruptcy Code thereby commencing the above-captioned

bankruptcy case (the "Bankruptcy Case"). Less than one year later, on February 1, 2010, the Court entered an order discharging Curro of all dischargeable debts pursuant to § 727 of the Bankruptcy Code (the "Discharge Order"). Shortly thereafter, on February 8, 2010, the Court issued a final decree and closed the Bankruptcy Case. On August 14, 2013, this Court entered its order re-opening the Bankruptcy Case to permit the commencement of this adversary proceeding.

10. This Court has jurisdiction over the Bankruptcy Case and this adversary proceeding pursuant to 28 U.S.C. §§ 157(a), 1334(a), 1408(1), and Rule 83.6(a) of the Local Rules of the United States District Court for the District of Maine, whereby all cases filed in Maine under Title 11 are automatically referred to this Court. This is a core matter for which Court has authority to enter a final order pursuant to 28 U.S.C. § 157(b)(2)(A) and (I). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

11. The statutory and rule predicates for the relief sought herein are §§ 105, 507, 523, and 524 of the Bankruptcy Code; and Rule 9020 of the Bankruptcy Rules.

GENERAL ALLEGATIONS

Curro's Relationship with Mellon, JP Morgan, Litton, and Ocwen

12. On or about May 27, 2005, Curro executed and delivered to Freemont Investment & Loan ("Fremont") a promissory note in the original principal amount of $249,300 (the "Note"). A true and exact copy of the Note is attached hereto and incorporated by reference herein as **Exhibit 1**.

13. Also on or about May 27, 2005, Curro executed and delivered to Mortgage Electronic Registration Systems, Inc. ("MERS"), as nominee for Freemont, that certain Mortgage (the "Mortgage"), pursuant to which Curro pledged certain property interests in

property located at 1339 Littlefield Road, Wells, County of York, State of Maine (the "Property"), in order to secure Curro's obligations under the Note. A copy of the Mortgage is attached hereto as **Exhibit 2**.

14. MERS purportedly assigned the Mortgage to Mellon by that certain Assignment of Mortgage recorded on July 2, 2009, in the York County Registry of Deeds Book 15673, Page 523 (the "MERS Assignment"). A true and exact copy of the MERS Assignment is attached hereto as **Exhibit 3**.

15. The MERS Assignment was executed on behalf of MERS by Marti Noriega as its Assistant Vice President. Upon information and belief, Marti Noriega (a) was employed by Litton at the time that the MERS Assignment was executed and not an Assistant Vice President of MERS, as set forth in the MERS Assignment; and (b) likely did not have knowledge of the information to which she attested.

16. MERS subsequently executed a Confirmatory Assignment of Mortgage affirming the MERS Assignment (the "Confirmatory Assignment"), which Confirmatory Assignment was recorded on January 18, 2011, in the York County Registry of Deeds Book 16031, Page 486. A true and exact copy of the Confirmatory Assignment is attached hereto as **Exhibit 4**. The Confirmatory Assignment states that it should be returned to Bendett & McHugh after recordation by the York County Registry of Deeds.

17. Mellon purportedly assigned the Mortgage to JP Morgan by that certain Assignment of Mortgage Maine recorded on January 12, 2012, in the York County Registry of Deeds Book 16241, Page 783 (the "Mellon Assignment"). A true and exact copy of the Mellon Assignment is attached hereto as **Exhibit 5**.

18. JP Mortgage purportedly assigned the Mortgage to Mellon by that certain Assignment of Mortgage Maine recorded on December 10, 2012, in the York County Registry of Deeds Book 16480, Page 898 (the "JP Morgan Assignment"). A true and exact copy of the JP Morgan Assignment is attached hereto as **Exhibit 6**.

19. Upon information and belief, Fremont either (a) merged with Litton or (b) sold, transferred, or assigned certain assets to Litton, including without limitation its rights and duties, whatever they may have been, under the Note and Mortgage.

20. For some or all of the time between May 27, 2005, and November 1, 2011, Litton was the loan servicer of the Note and Mortgage for Mellon.

21. Subsequently, as will be discussed below, as of November 1, 2011, Ocwen became the loan servicer for the Note.

The Foreclosure Action Against Curro and Curro's Bankruptcy Case

22. On or about June 17, 2009, Mellon caused Curro to be served with a Summons and Complaint (the "Complaint") initiating an action styled as *The Bank of New York Mellon Trust Company, National Association FKA The Bank of New York Trust Company, N.A. as Successor to JPMorgan Chase Bank N.A. as Trustee for Mortgage Asset-Backed Pass-Through Certificates Series 2005-SP3 v. Billy J. Curro*, Do. No. RE-09-106 (Maine District Court, Division of York) (the "Foreclosure Action", and the "Maine District Court", respectively). A copy of the Complaint (excluding related exhibits) is attached hereto as **Exhibit 7**.

23. To the extent that the MERS Assignment is a valid assignment, it had not yet been recorded at the time when Mellon commenced the Foreclosure Action, and Mellon held no perfected interest in the Mortgage at the time that it commenced the Foreclosure Action.

24. In the Foreclosure Action, Mellon alleged that Curro had breached the terms of the Note and Mortgage by failing to make payments when and as required and sought entry of a judgment of foreclosure and order of sale as well as a finding that Curro "is/are liable for any deficiency balance remaining due to Plaintiff after the sale of the mortgaged real estate and application of the proceeds of sale (unless a bankruptcy discharge has entered to void this relief)[.]"

25. The Foreclosure Action was initiated on Mellon's behalf by attorneys at the law firm of Bendett & McHugh.

26. According to Bendett & McHugh's website, Bendett & McHugh markets itself as a multi-state law firm specializing in foreclosures and related issues, including bankruptcy, to wit:

> Bendett & McHugh, P.C. offers representation to the mortgage servicing and lending industry. The Firm has nearly 25 years experience in representing clients in mortgage default litigation and real estate. The Firm provides full representation to mortgage lenders and servicers to resolve their default related needs. The default servicing practice is comprised of routine and litigated foreclosures, senior lien monitoring, title issues, foreclosure avoidance, bankruptcy, evictions and REO sales.
>
> Bendett & McHugh, P.C. provides default legal services for the mortgage servicing industry in Connecticut, Maine, Massachusetts, Rhode Island, and Vermont.

See http://bmpc-law.com/ (last visited August 16, 2013).

27. Upon information and belief, Bendett & McHugh had knowledge of the fact that the MERS Assignment was not a valid assignment. As noted above, the Confirmatory Assignment indicated that it should be returned to Bendett & McHugh after recordation by the York County Registry of Deeds.

28. As set forth above, Curro initiated this Bankruptcy Case on the Petition Date — October 20, 2009.

29. On the Petition Date, Curro filed a schedule of assets and liabilities (the "Schedules and Statements" and individually, each such Schedule and Statement, shall be referred to hereinafter as a "Schedule"), as required under § 521 of the Bankruptcy Code.

30. On his Schedule A, Curro scheduled, *inter alia*, the Property.

31. Curro used the Property as rental property.

32. On Schedule D, Curro scheduled a claim in favor of Litton (upon information and belief, Litton was at that time servicing the Note for Mellon) on account of the Note and Mortgage in the amount of $238,888.00, $88,000.00 of which was scheduled as an unsecured claim.

33. Also on the Petition Date, Curro filed a Creditor Matrix that included Litton. [D.E. 6.]

34. On or about October 24, 2009, the Bankruptcy Noticing Center sent notice of the Bankruptcy Case to Litton by mailing a Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines (Official Form 9A) (the "Notice"). [D.E. 12.]

35. On or about November 9, 2009, Curro filed his Chapter 7 Individual Debtor's Statement of Intention (the "Statement of Intention"). [D.E. 13.] In the Statement of Intention, Curro informed Litton that he claimed no exemption in the Property and that he intended to surrender the property to Litton.

36. On December 22, 2009, Mellon filed a Consented To Motion for Relief From Stay (the "RFS Motion"). [D.E. 14.] By the RFS Motion, Mellon sought entry of an order "modifying the stay [under §362 of the Bankruptcy Code] to permit it to foreclose its Mortgage

on the Property belonging to the Debtor located at 1339 Littlefield Road, Wells, Maine and pursue its remedies under State [sic] law, and to take all actions necessary and appropriate to realize upon its security and to satisfy its debt thereby[.]"

37. Curro and the Chapter 7 Trustee, John C. Turner, consented to the relief requested in the RFS Motion.

38. The Court entered an order granting the RFS Motion on December 23, 2009 (the "RFS Order"). [D.E. 15.]

39. On February 1, 2010, the Court entered an order discharging Curro of all pre-petition claims, including any claims against Curro personally on account of the Note and Mortgage, pursuant to § 727 of the Bankruptcy Code (the "Discharge Order"). [D.E. 20.] A true and exact copy of the Discharge Order and electronic notice of the same is attached hereto as **Exhibit 8**.

40. Upon information and belief, the Discharge Order was mailed by the Bankruptcy Notice Center to Litton and Mellon (care of Litton), as set forth in the BNC Certificate of Mailing [D.E. 21], a copy of which is attached hereto as **Exhibit 9**, and it was also served electronically on Mellon's attorney, Peter D. Klein, as set forth in Exhibit 8.

41. Upon information and belief, Litton and Mellon had actual or constructive knowledge of the Discharge Order.

42. On February 8, 2010, the Court issued its Final Decree closing the Bankruptcy Case.

The Foreclosure Action Continues; Mellon Seeks a Deficiency Judgment Against Curro

43. On or about August 27, 2010, Mellon, acting through its attorneys at Bendett & McHugh, filed an amended complaint in the Foreclosure Action (the "Amended Complaint") in

which Mellon sought not only a judgment of foreclosure and order of sale with respect to the Property but, as in the original Complaint, also a finding that Curro "is liable for any deficiency balance remaining due to Plaintiff after the sale of the mortgaged real estate and application of the proceeds of sale (this prayer is void of any Defendant that did not execute the Note or Guaranty for any Defendant who has been granted discharge in bankruptcy)[.]" A true and exact copy of the Amended Complaint (excluding related exhibits) is attached hereto as **Exhibit 10**.

44. Mellon caused the Amended Complaint to be served on Curro.

45. On or about December 30, 2010, Mellon, acting through its attorneys at Bendett & McHugh, filed Plaintiff's Second Motion to Amend its Complaint with Incorporated Order (the "Motion to Amend") in which Mellon sought entry of an order to add "two additional liens which were discovered during Plaintiff's title update" but "the remainder of the Complaint and the previously filed first Amended Complaint shall remain in full force and effect."

46. Mellon caused the Motion to Amend to be served on Curro.

47. Upon information and belief, the Motion to Amend was granted.

48. Subsequently, Mellon, acting through its attorneys at Bendett & McHugh, filed a motion for summary judgment in the Foreclosure Action (the "Summary Judgment Motion").

49. Mellon caused the Summary Judgment Motion to be served on Curro.

50. Included with the Summary Judgment Motion was a form of judgment that sought entry of a deficiency judgment against Curro with language similar in all material respects to that in the Complaint and Amended Complaint, as set forth herein.

51. Curro was not represented by an attorney in the Foreclosure Action because he reasonably believed that all personal liability had been discharged pursuant to the Discharge Order.

52. Mellon's repeated court filings seeking entry of a deficiency judgment against Curro distressed Curro and were malicious, coercive, harassing and/or reckless.

53. In the fall of 2011, Curro turned to his bankruptcy counsel, attorneys with the law firm of Marcus, Clegg & Mistretta, P.A. ("MCM"), to try to bring an end collection efforts by Mellon in the Foreclosure Action.

54. On or about November 7, 2011, an attorney with MCM left a telephone message for Elizabeth Crowe ("Crowe"), an attorney at Bendett & McHugh who represented Mellon in the Foreclosure Action, in order to discuss Mellon's post-discharge collection efforts against Curro.

55. On November 7, 2011, MCM sent a letter to Crowe sending a copy of the Discharge Order and demanding that Mellon cease and desist all collection efforts (the "MCM's November 7 Letter"). A true and exact copy of MCM's November 7 Letter is attached hereto as **Exhibit 11**.

56. On December 7, 2011, MCM a letter to Ocwen enclosing a copy of the Creditor Matrix listing Litton, the Statement of Intent, and the Discharge Order (the "MCM's December 7 Letter"). MCM's December 7 Letter was also sent to Litton. A true and exact copy of MCM's December 7 Letter is attached hereto as **Exhibit 12**.

57. On or amount May 15, 2012, the Maine District Court granted the Summary Judgment Motion and entered that certain Judgment of Foreclosure and Sale (the "Foreclosure Judgment"), which, upon information and belief, was drafted and prepared by Bendett & McHugh. A true and exact copy of the Foreclosure Judgment is attached hereto as **Exhibit 13**.

58. The Foreclosure Judgment granted Mellon a deficiency judgment against Curro subject to a disclaimer that no execution would issue to an individual who had received a discharge in bankruptcy.

Litton's Post-Discharge Collection Efforts

59. After entry of the Discharge Order, Litton continued to send dunning letters and other communications to Curro in an effort to collect his pre-petition obligations under the Note and the Mortgage, including without limitation the following ("Litton's Post-Discharge Communications"):

a. On or about October 6, 2011, Litton sent a letter to Curro informing him that he was in default under the Mortgage for failing to provide evidence of hazard insurance covering the Property and also informing him that Litton had purchased forced-place insurance for the Property (the "Litton's Forced-Place Insurance") and that the annual premium for Litton's Forced-Place Insurance was being debited against Curro's escrow account (*i.e.*, added to what he owed under the Mortgage) ("Litton's October 6 Letter"). A true and exact copy of Litton's October 6 Letter is attached hereto as **Exhibit 14**. Litton's October 6 Letter states that it was an attempt to collect a debt.

b. On or about October 14, 2011, Litton sent Curro a letter informing him that as of November 1, 2011, Litton would no longer be servicing the Note and Mortgage and directing him to send all future payments to the new loan servicer, Ocwen (the "Litton's October 14 Letter"). A true and exact copy of Litton's October 14 Letter is attached hereto as **Exhibit 15**. Litton's October 14 Letter also demanded payment in the amount of $1,850.83 for a payment that was due on or before March 1, 2009, and included a payment coupon for Curro to use when remitting payment to Ocwen.

c. On or about November 2, 2011, Litton sent a letter to Curro informing him that due to the transfer of loan servicing with respect to the Notes and Mortgage to Ocwen Litton's Forced-Place Insurance had been cancelled, and that Curro had been charged $219.02 for a portion of the premium for Litton's Forced-Place Insurance (the "Litton's November 2 Letter"). A true and exact copy of the November Insurance Letter is attached hereto as **Exhibit 16**.

60. Litton had actual knowledge of the Discharge Order at all times relevant to the allegations in the immediately foregoing ¶ 59, *supra*.

Ocwen's Post-Discharge Collection Efforts

61. After entry of the Discharge Order, Ocwen began to send dunning letters and other communications to Curro in an effort to collect on account of the Note and obligations in the Mortgage, including without limitation the following ("Ocwen's Post-Discharge Communications"):

a. Included with Litton's October 14 Letter was correspondence from Ocwen to Curro "Ocwen's October 14, 2011 Letter"). *See* **Exhibit 14**, *supra*. Ocwen's October 14, 2011 Letter directed Curro to make payment to Ocwen on account of the Note and Mortgage.

b. On or about November 4, 2011, Ocwen sent Curro a letter demanding payment in the amount of $302,479.08 on account of the Note ("Ocwen's November 4, 2011 Letter"). A true and exact copy of Ocwen's November 4, 2011 Letter is attached hereto as **Exhibit 17**.

c. On or about November 8, 2011, Ocwen sent Curro a statement demanding payment of $73,547.74 on account of the Note and Mortgage ("Ocwen's November 2011 Statement"). A true and exact copy of the Ocwen's November 2011 Statement is attached hereto as **Exhibit 18**.

d. On or about November 10, 2011, Ocwen sent Curro a letter related to an insurance claim with respect to the Property ("Ocwen's November 10, 2011 Letter") and asking that Curro call Ocwen "to discuss the current status of the repairs." A true and exact copy of Ocwen's November 10, 2011 Letter is attached hereto as **Exhibit 19.**

e. On or about November 13, 2011, Ocwen sent Curro a letter demanding that he obtain hazard insurance with respect to the Property (the "Ocwen's November 13, 2011 Letter"). A true and exact copy of Ocwen's November 13, 2011 Letter is attached hereto as **Exhibit 20**. Ocwen's November 13, 2011 Letter states that if Curro fails to obtain hazard insurance then "we may purchase hazard insurance . . . and charge you for the cost of the insurance."

f. On or about December 13, 2011, Ocwen sent Curro a letter related to proceeds of the insurance claim ("Ocwen's December 13, 2011 Letter") and asking that Curro call Ocwen "to discuss the current status of the repairs." A true and exact copy of Ocwen's December 13, 2011 Letter is attached hereto as **Exhibit 21**.

g. On or about December 18, 2011, Ocwen sent Curro a letter advising him (1) that it had obtained a short-term hazard insurance policy covering the Property and that he would be responsible for the cost of such policy, and (2) that if he did not obtain hazard insurance and provide evidence of the same to Ocwen, then Ocwen would purchase forced-place insurance to cover the Property ("Ocwen's December 18, 2011 Letter"). A true and exact copy of Ocwen's December 18, 2011 Letter is attached hereto as **Exhibit 22**.

h. On or about December 19, 2011, Ocwen sent Curro a statement demanding payment of $75,710.79 on account of the Note and Mortgage ("Ocwen's December 2011 Statement"). A true and exact copy of Ocwen's December 2011 Statement is attached hereto as **Exhibit 23**.

i. On or about September 17, 2012, Ocwen sent Curro a statement demanding payment of $95,880.45 on account of the Note and Mortgage ("Ocwen's September 2012 Statement"). A true and exact copy of Ocwen's September 2012 Statement is attached hereto as **Exhibit 24**.

j. On or about October 13, 2012, Ocwen sent Curro a letter demanding that Curro inform Ocwen as to whether the Property is occupied and (a) if vacant, "indicate that you are monitoring the property at least once a week and take full responsibility for the vacancy[,]" including repairing damage at Curro's expense, or (b) if occupied, then inform Ocwen of that fact otherwise Ocwen would seek to have the Property winterized ("Ocwen's October 13, 2012 Letter"). A true and exact copy of Ocwen's October 13, 2012 Letter is attached hereto as **Exhibit 25**.

k. On or about November 10, 2012, Ocwen sent Curro a letter informing him that it was following up on a letter from 30 days earlier in which Ocwen indicated that a forced-place insurance policy obtained on the Property ("Ocwen's Forced-Place Insurance") was set to expire and that Ocwen's Forced-Place Insurance policy would renew absent proof from Curro of hazard insurance on the Property ("Ocwen's November 10, 2012 Letter"). A true and exact copy of Ocwen's November 10, 2012 Letter is attached hereto as **Exhibit 26**. Ocwen's November 10, 2012 Letter continued: "If this policy is renewed, we will charge your escrow account $1,977.00 approximately 30 days from the date of the letter for the renewal premium that is due. If you do not have an escrow account, one may be established, or you will be billed directly."

l. On or about November 16, 2012, Ocwen sent Curro a letter informing him that a foreclosure sale had been scheduled on the Property "but it may not be too late to save it" ("Ocwen's November 16, 2012 Letter"). A true and exact copy of Ocwen's November 16, 2012 Letter is attached hereto as **Exhibit 27**. Ocwen's November 16, 2012 Letter directed Curro to contact Ocwen "upon receipt of this letter" and included additional correspondence stating that Ocwen "want[s] to make modifying your mortgage loan as easy as possible. However, you must take the first step by contacting us[.]"

m. On or about December 3, 2012, Ocwen sent Curro a letter substantially the same as Ocwen's November 16, 2012 Letter ("Ocwen's December 3, 2012 Letter"). A true and exact copy of Ocwen's December 3, 2012 Letter is attached hereto as **Exhibit 28**.

n. On or about December 16, 2012, Ocwen sent Curro a letter enclosing a copy of Ocwen's Forced-Place Insurance policy and charging Curro $1,977.00 for the annual cost of the premium for renewal of Ocwen's Forced-Place Insurance Policy ("Ocwen's December 16, 2012 Letter"). A true and exact copy of Ocwen's December 16, 2012 Letter is attached hereto as **Exhibit 29**.

62. Upon information and belief, Ocwen sent monthly billing statements substantially in the same form as set forth in **Exhibit 24**, *see* ¶ 61(i), *supra*, each and every month of calendar year 2012.

63. Upon information and belief, Ocwen billed Curro for first-year's premium of Ocwen's Forced-Place Insurance for a one-year policy with an effective date on or about November 1, 2011.

64. Ocwen had actual knowledge of the Discharge Order at all times relevant to the allegations in ¶¶ 61-63, *supra*.

Errors in Curro's Credit Report Led to High Interest Rates, a Denial of Credit, and a Loss of Profits

65. Curro owns and operates a used car sales business, Autoland Auto Sales, located in Wells, Maine ("Autoland").

66. Autoland typically buys used cars at auctions in New England and then brings them to its location in Wells, where it sells them to consumers.

67. After closure of the Bankruptcy Case, Curro developed a business plan for Autoland that sought to expand his business in two material ways (the "Business Plan"):

a. First, he wanted to obtain financing in the amount of $100,000 for the purchase of used cars in order to expand inventory; and

b. Second, he wanted to offer credit terms to customers in order to (i) increase the number of sales by expanding his pool of buyers, and (ii) add another source of revenue, *i.e.* interest income on loans to customers secured by purchase money security interests vehicles sold by Autoland to such customers.

68. To effectuate the Business Plan, Curro applied for business loans from Sovereign Bank ("Sovereign") and Saco Valley Credit Union ("SVCU"). One or both of Sovereign and SVCU informed Curro that, after entry of the Discharge Order, Ocwen had made reports of late payments and a pending foreclosure on account of the Note and Mortgage to one or more credit bureaus, including Experian, and that this information had an adverse effect on Curro's creditworthiness.

69. Sovereign denied Curro's request for financing.

70. SVCU agreed to lend money to Curro but gave him a much smaller loan with a higher interest rate than he would have otherwise received. As a result, Curro has not been able to grow his business in accordance with the Business Plan, having less inventory to sell and earning less income from financing vehicles purchased by customers.

71. SVCU provided Curro with a copy of his credit report (the "Credit Report"), which Credit Report is dated September 20, 2012. A true and exact copy of the Credit Report, as redacted, is attached hereto as **Exhibit 30**. The Credit Report showed an active foreclosure proceeding by Ocwen pending against the Property, a past-due amount of approximately $102,828 due on the Note, and made no mention of the fact that this debt was discharged pursuant to the Discharge Order.

72. Subsequently, on or about October 31, 2012, Curro called Ocwen and requested that Ocwen take steps to correct the derogatory information on the Credit Report insofar as (i)

the automatic stay imposed by § 362 of the Bankruptcy Code (the "Automatic Stay") and the Discharge Order barred reports of late payments after commencement of the Bankruptcy Case, and (ii) Curro's personal liability for the Note and Mortgage (to the extent of any personal obligations under the Mortgage) had been discharged.

73. Ocwen refused to make any such change or corrections to the Credit Report or information published to one or more credit bureaus, including Experian, and demanded proof that the Property had been surrendered and that Curro's had received a discharge in the Bankruptcy Case.

74. Curro subsequently sent Ocwen a copy of his Schedules and Statements and Statement of Intent with the expectation that doing so would cause Ocwen to correct its reporting to Experian and other credit bureaus.

75. On or about November 18, 2012, Curro obtained a copy of his credit report directly from Experian (the "November 2012 Credit Report"). Relevant excerpts from the November 2012 Credit Report, as redacted, are attached hereto as **Exhibit 31**. The November 2012 Credit Report shows the following with respect to Litton and Ocwen:

a. **Litton** continued to report derogatory credit information related to the Note to Experian after the Petition Date in violation of the Automatic Stay and/or the Discharge Injunction; and

b. **Ocwen** began reporting derogatory credit information related to the Note to Experian beginning in November 2011 through and including September 2012 and showed the account status as open with a then-pending foreclosure in violation of the Discharge Injunction.

76. On or about February 27, 2013, Curro obtained another copy of his credit report directly from Experian (the "February 2013 Credit Report"). Relevant excerpts from the February 2013 Credit Report, as redacted, are attached hereto as **Exhibit 32**. The February 2013 Credit Report shows the following with respect to Litton and Ocwen:

a. **Litton** continued to report derogatory credit information related to the Note to Experian after the Petition Date in violation of the Automatic Stay and/or the Discharge Injunction; and

b. **Ocwen** began reporting derogatory credit information related to the Note to Experian beginning in November 2011 through and including November 2012 and showed the account status as open with a then-pending foreclosure in violation of the Discharge Injunction.

77. On or about March 14, 2013, Curro sent a letter to Experian disputing the accuracy of the reporting by Ocwen.

78. Curro suffered emotional and physical distress from the post-petition collection efforts of Mellon, Litton, Ocwen, and Bendett & McHugh, including by developing hives and sleeplessness.

79. Each of the Defendants failed to develop and maintain proper procedures to prevent collection of debts discharged pursuant to the Bankruptcy Code.

COUNT I
(Dischargeability of a Debt)

80. Curro repeats and realleges all of the preceding paragraphs as if set forth fully herein.

81. The Note represents a debt that is dischargeable under Chapter 7 of the Bankruptcy Code.

82. To the extent that Curro has any personal liability under the Mortgage, such liability also represents a debt that is dischargeable under Chapter 7 of the Bankruptcy Code.

83. All personal liability of Curro under the Note and Mortgage were, in fact, discharged upon entry of the Discharge Order.

WHEREFORE, Curro requests that this Court enter judgment for Curro (i) declaring that all of Curro's personal liability under the Note and Mortgage are dischargeable; (ii) that such debts have, in fact, been discharged by the Discharge Order; (iii) awarding Curro his attorneys fees and costs in connection with this claim, and (iv) granting such other relief as the Court deems just and proper.

COUNT II
(Violation of the Discharge Injunction (11 U.S.C. § 524(a) and the Discharge Order))
(Curro v. Mellon)

84. Curro repeats and realleges each of the allegations in the preceding paragraphs as if set forth fully herein.

85. Mellon's acts in the Foreclosure Action, and the acts of its agents, Litton and Ocwen, violated the Discharge Order and the injunction imposed by § 524(a) of the Bankruptcy Code (the "Discharge Injunction") because, *inter alia*, of the following:

a. Mellon had notice of the Discharge Order.

b. Mellon's took those actions set forth herein in the Foreclosure Action in violation of the Discharge Order. *See* ¶¶ 43-58, *supra*.

c. Mellon failed to ensure that proper procedures were in place to ensure compliance with the Discharge Order.

d. Curro's personal liability under the Note and Mortgage (to the extent there was any personal liability under the Mortgage) was discharged by entry of the Discharge Order.

e. Mellon intended its collection efforts in the Foreclosure Action, including entry of the Foreclosure Judgment, and such actions were willful, malicious, coercive, and/or in reckless disregard of §§ 105 and 524 of the Bankruptcy Code.

f. Mellon's acts in the Foreclosure Action improperly coerced or harassed Curro for payment of a pre-petition claim.

86. As a result of the foregoing, Curro suffered emotional distress and incurred attorneys' fees.

WHEREFORE, Curro requests that this Court enter judgment for Curro (i) finding Mellon in contempt of the Discharge Order; (ii) sanctioning Mellon for violating the Discharge Injunction and Discharge Order; (iii) awarding Curro actual damages, including without limitation emotional distress damages, costs, and attorneys' fees; (iv) awarding Curro punitive damages; (v) to the extent necessary, ordering Mellon to take corrective action with respect to Curro's credit report; (vi) ordering Mellon to file and prosecute a motion in the Foreclosure Action pursuant to Rule 60 of the Maine Rules of Civil Procedure to strike that portion of the Foreclosure Judgment entering judgment against Curro personally; and (vi) and granting Curro such other and further relief as this Court deems just and proper.

COUNT III
(Violation of the Discharge Injunction (11 U.S.C. § 524(a) and the Discharge Order))
(Curro v. Litton)

87. Curro repeats and realleges each of the allegations in the preceding paragraphs as if set forth fully herein.

88. Litton's acts violated the Discharge Order and the Discharge Injunction because, *inter alia*, of the following:

a. Litton had notice of the Discharge Order.

b. Litton intended to send Curro Litton's Post-Discharge Communications.

c. Litton made derogatory reports to one or more credit bureaus in violation of the Automatic Stay and/or Discharge Order.

d. Litton failed to ensure that proper procedures were in place to ensure compliance with the Discharge Order.

e. These acts and omissions, in the case of Litton's failure to ensure proper procedures were in place to ensure compliance with the Automatic Stay and Discharge Order, were willful, malicious, coercive, harassing, and/or in reckless disregard of §§ 105 and 524 of the Bankruptcy Code.

89. As a result of Litton's post-discharge collection efforts, Curro suffered severe emotional distress and was forced to incur attorneys' fees.

WHEREFORE, Curro requests that this Court enter judgment for Curro (i) finding Litton in contempt of the Discharge Order; (ii) sanctioning Litton for violating the Discharge Injunction and Discharge Order; (iii) awarding Curro actual damages, including without limitation emotional distress damages, costs, and attorneys; fees; (iv) awarding Curro punitive damages; (v) to the extent necessary, ordering Litton to take corrective action with respect to Curro's credit report; and (vi) and granting Curro such other and further relief as this Court deems just and proper.

COUNT IV
(Violation of the Discharge Injunction (11 U.S.C. § 524(a) and the Discharge Order))
(Curro v. Ocwen)

90. Curro repeats and realleges each of the allegations in the preceding paragraphs as if set forth fully herein.

91. Ocwen's acts violated the Discharge Order and the Discharge Injunction because, *inter alia*, of the following:

a. Ocwen had notice of the Discharge Order.

b. Ocwen intended to send Curro Ocwen's Post-Discharge Communications.

c. Ocwen's Post-Discharge Communications improperly coerced or harassed Curro for payment of a pre-petition claim.

d. Ocwen failed to ensure that proper procedures were in place to ensure compliance with the Discharge Order.

e. Ocwen made statements to credit bureaus, including Experian, with derogatory information about Curro in violation of the Discharge Order.

f. These acts and omissions, in the case of Litton's failure to ensure proper procedures were in place to ensure compliance with the Discharge Order, were willful, malicious, coercive, harassing, and/or in reckless disregard of §§ 105 and 524 of the Bankruptcy Code.

92. As a result of the foregoing, Curro was damaged by, *inter alia*, a denial of credit and obtaining credit on terms less favorable than they otherwise would have been, suffering severe emotional distress, and incurred attorneys' fees.

WHEREFORE, Curro requests that this Court enter judgment for Curro (i) finding Ocwen in contempt of the Discharge Order; (ii) sanctioning Ocwen for violating the Discharge Injunction and Discharge Order; (iii) awarding Curro actual damages, including without limitation emotional distress damages, costs, and attorneys' fees, and lost profits; (iv) awarding Curro punitive damages; (v) to the extent necessary, ordering Ocwen to take corrective action with respect to Curro's credit report; and (vi) and granting Curro such other and further relief as this Court deems just and proper.

COUNT V
(Violation of the Discharge Injunction (11 U.S.C. § 524(a) and the Discharge Order))
(Curro v. Bendett & McHugh)

93. Curro repeats and realleges each of the allegations in the preceding paragraphs as if set forth fully herein.

94. Bendett & McHugh's acts violated the Discharge Order and the Discharge Injunction because, *inter alia*, of the following:

a. Bendett & McHugh had notice of the Discharge Order.

b. Bendett & McHugh intended to prosecute the Foreclosure Action, including without limitation by filing the Motion to Amend; the Summary Judgment Motion; by drafting and serving the form of judgment in support of the Summary Judgment Motion; and by obtaining entry of the Foreclosure Judgment.

c. Bendett & McHugh sent Curro communications to collect on the Note and Mortgage even after entry of the Discharge Order.

d. Bendett & McHugh failed to ensure that proper procedures were in place to ensure compliance with the Discharge Order.

e. Bendett & McHugh intended the acts and omissions, in the case of its failure to ensure proper procedures were in place to ensure compliance with the Discharge Order, set forth herein and took such actions willfully, maliciously, coercively, and/or recklessly in disregard of §§ 105 and 524 of the Bankruptcy Code.

95. As a result of the foregoing, Curro suffered damages, including severe emotional distress and incurring attorneys' fees.

WHEREFORE, Curro requests that this Court enter judgment for Curro (i) finding Bendett & McHugh in contempt of the Discharge Order; (ii) sanctioning Bendett & McHugh for violating the Discharge Injunction and Discharge Order; (iii) awarding Curro actual damages, including without limitation emotional distress damages, costs, and attorneys' fees; (iv) awarding Curro punitive damages; (v) to the extent necessary, ordering Bendett & McHugh to file and prosecute a motion pursuant to Rule 60(b) of the Maine Rules of Civil Procedure to have that portion of the Foreclosure Judgment imposing personal liability on Curro stricken from the Foreclosure Judgment; and (vi) and granting Curro such other and further relief as this Court deems just and proper.

COUNT VI
(Violation of the Discharge Injunction (11 U.S.C. § 524(a) and the Discharge Order))
(Curro v. JP Morgan)

96. Curro repeats and realleges each of the allegations in the preceding paragraphs as if set forth fully herein.

97. As set forth in the Mellon Assignment, Mellon purportedly assigned the Mortgage to JP Mortgage on or about January 12, 2012.

98. By virtue of the Mellon Assignment, JP Morgan was the real party in interest in the Foreclosure Action from the date when the Mellon Assignment was recorded onward,

including when the Maine District Court entered the Foreclosure Judgment, notwithstanding Mellon's prosecution of the Foreclosure Action.

99. Upon information and belief, Ocwen was JP Morgan's agent and loan servicer after recordation of the Mellon Assignment but before JP Morgan the JP Morgan Assignment was recorded.

100. Upon information and belief, JP Morgan had actual or constructive notice of the Discharge Order.

101. JP Mortgage neither sought nor obtained relief from the Automatic Stay to pursue the Foreclosure Action.

102. JP Morgan intended its collection efforts in the Foreclosure Action, *i.e.* Mellon's obtaining entry of the Foreclosure Judgment on its behalf as real party in interest, and such actions were willful, malicious, coercive, and/or in reckless disregard of §§ 105 and 524 of the Bankruptcy Code.

103. JP Morgan's acts in the Foreclosure Action improperly coerced or harassed Curro for payment of a pre-petition claim that had been discharged.

104. JP Morgan failed to ensure that it had proper procedures in place to ensure compliance with the Discharge Order.

105. As a result of JP Morgan's acts, Curro suffered damages, including severe emotional distress, and incurred attorneys' fees.

WHEREFORE, Curro requests that this Court enter judgment for Curro (i) finding JP Morgan in contempt of the Discharge Order; (ii) sanctioning JP Morgan for violating the Discharge Injunction and Discharge Order; (iii) awarding Curro actual damages, including without limitation emotional distress damages, costs, and attorneys' fees; (iv) awarding Curro punitive damages; (v) to the extent necessary, ordering JP Morgan to take corrective action with respect to Curro's credit report; (vi) ordering JP Morgan to file and prosecute a motion in the Foreclosure Action pursuant to Rule 60 of the Maine Rules of Civil Procedure to strike that portion of the Foreclosure Judgment entering judgment against Curro personally ; and (vi) and granting Curro such other and further relief as this Court deems just and proper.

Dated: August 19, 2013

BILLY J. CURRO

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